



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4301**

Introduced 1/30/2004, by Barbara Flynn Currie

**SYNOPSIS AS INTRODUCED:**

New Act  
750 ILCS 45/6

from Ch. 40, par. 2506

Creates the Gestational Surrogacy Act. Provides guidelines for creating surrogacy contracts. Establishes the eligibility requirements for becoming a surrogate. Amends the Illinois Parentage Act of 1984. Changes the Section concerning the establishment of the parent and child relationship to include the provisions outlined in the Gestational Surrogacy Act.

LRB093 17968 LCB 43651 b

1 AN ACT concerning surrogacy.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Gestational Surrogacy Act.

6 Section 5. Purpose. The purpose of this Act is to  
7 establish consistent standards and procedural safeguards for  
8 the protection of all parties involved in a gestational  
9 surrogacy contract in this State and to confirm the legal  
10 status of children born as a result of these contracts. These  
11 standards and safeguards are meant to facilitate the use of  
12 this type of reproductive contract in accord with the public  
13 policy of this State.

14 Section 10. Definitions. As used in this Act:

15 "Compensation" means payment of any valuable consideration  
16 for services in excess of reasonable medical and ancillary  
17 costs.

18 "Donor" means an individual who contributes a gamete or  
19 gametes for the purpose of in vitro fertilization or  
20 implantation in another.

21 "Gamete" means either a sperm or an egg.

22 "Gestational surrogacy" means the process by which a woman  
23 gestates an embryo that is conceived outside of her body and to  
24 which she has made no genetic contribution.

25 "Gestational surrogate" means a woman who agrees to engage  
26 in a gestational surrogacy.

27 "Health care provider" means a person who is duly licensed,  
28 certified, or otherwise authorized to provide health care,  
29 including all medical, psychological, or counseling  
30 professions.

31 "Informed consent" means a voluntary decision to

1 participate in the medical procedures and contractual  
2 obligations involved in the surrogacy contract after being  
3 fully informed by the agent or counselor of the medical,  
4 psychological, and emotional risks involved and the legal,  
5 financial, and contractual rights, expectations, penalties,  
6 and obligations.

7 "Intended parent" means a person who enters into a  
8 surrogacy contract with a surrogate, in accordance with this  
9 Act, by which he or she is to become the parent of the  
10 resulting child. This term shall include the intended mother,  
11 intended father, or both.

12 "In vitro fertilization" means all medical and laboratory  
13 procedures that are necessary to effectuate the extracorporeal  
14 combining of gametes to allow fertilization to occur.

15 "Medical evaluation" means an evaluation and consultation  
16 of a physician meeting the requirements of this Act.

17 "Mental health evaluation" means an evaluation and  
18 consultation of a mental health professional meeting the  
19 requirements of this Act.

20 "Preembryo" means the cell mass that results from  
21 fertilization of an ovum prior to implantation.

22 "Preembryo transfer" means all medical and laboratory  
23 procedures that are necessary to effectuate the transfer of a  
24 preembryo into the uterine cavity.

25 "Surrogacy" means any arrangement by which a woman agrees  
26 to be impregnated using either the intended father's sperm, the  
27 intended mother's egg, or a preembryo with the intent that the  
28 intended parent or parents are to become the legal parent or  
29 parents of the resulting child after the child's birth.

30 "Surrogacy contract" means a written agreement that  
31 complies with at least the minimum requirements of this Act and  
32 determines the rights and responsibilities of all involved  
33 parties.

34 "Surrogate" means a female person, at least 21 years of  
35 age, who agrees, pursuant to a surrogacy contract, to be  
36 impregnated using the intended father's sperm or donor sperm

1 and the intended mother's egg, or the preembryo, with the  
2 intent that, after the birth of the resulting child, the legal  
3 parents shall be the intended parent or parents.

4 "Surrogacy agent" or "agent" means an individual or  
5 organization that is responsible for the organization and  
6 screening involved in the surrogacy arrangement and contract.

7 Section 15. Eligibility. In order to qualify as a  
8 surrogate, the woman must:

9 (1) be at least 21 years of age;

10 (2) undergo medical evaluation and provide  
11 documentation that demonstrates the medical acceptability  
12 of the woman to undergo the in vitro fertilization or  
13 preembryo transfer procedure; and

14 (3) undergo an evaluation by a counselor or  
15 psychologist and provide written certification of the  
16 counseling and evaluation determining that the woman is  
17 mentally capable of complying with the surrogate contract  
18 to the health care provider performing the in vitro  
19 fertilization or preembryo transfer procedure.

20 Section 20. Rights of parentage.

21 (a) A woman who gives birth to a child shall be the mother  
22 of that child unless otherwise provided for in this Act. In the  
23 case of surrogacy, the intended mother is the mother of the  
24 child for purposes of State law.

25 (b) A man is presumed to be the father of the child if he is  
26 the biological father or the intended father who has  
27 acknowledged his paternity in writing, prior to the  
28 fertilization procedure, and agrees to accept all of the  
29 obligations and rights of paternity.

30 (c) Parental rights shall vest in the intended parent or  
31 parents immediately upon the birth of the child.

32 (d) In the case of gestational surrogacy, sole custody of  
33 the child goes to the intended parent or intended parents.

34 (e) In the case of artificial insemination surrogacy, sole

1 custody of the child goes to the intended parents, but the  
2 surrogate may petition the court for the visitation rights that  
3 are outlined in the surrogacy contract. The court may use its  
4 discretion in ordering visitation, but must take into account  
5 the best interests of the child.

6 (f) Any person who is determined to be the parent and have  
7 custody of the child under this Act is obligated to support the  
8 child.

9 Section 25. Health care decisions concerning the fetus. All  
10 decisions regarding the health of the birth mother and the  
11 fetus shall be made by the birth mother, except as agreed upon  
12 in the surrogacy contract.

13 Section 30. Legitimacy. A child created through the  
14 provisions of this Act shall be considered, upon birth, the  
15 legitimate child of the intended parent or parents for all  
16 legal purposes.

17 Section 35. Succession. A child who is the result of a  
18 surrogacy contract shall be considered a child only of his or  
19 her intended parent or parents for the purposes of:

20 (1) intestate succession;

21 (2) taking against the will of any person, unless the  
22 will provides otherwise; or

23 (3) being entitled to any support or similar allowance  
24 during the administration of a parent's estate.

25 Section 40. Duty to support.

26 (a) Any person who is determined to be the parent of a  
27 child under this Act shall support the child.

28 (b) If the parties of a surrogacy contract do not  
29 substantially comply with the applicable provisions of this  
30 Act, the court may impose a support obligation on any of the  
31 parties. In imposing this support obligation, the court may  
32 consider the seriousness of and the reasons for noncompliance

1 in order to determine which of the parties, if any, should be  
2 liable for support.

3 (c) If any person willfully fails to comply with the  
4 provisions of this Act and the effect of noncompliance is the  
5 authorization of a procedure in violation of this Act, that  
6 person may be liable for support of the resulting child.

7 (d) A breach of a surrogacy contract by the intended parent  
8 or parents shall not affect their support obligation.

9 Section 45. Requirements for surrogacy contract. A  
10 surrogacy contract is lawful only if the following requirements  
11 are fulfilled:

12 (a) The contract is formed through a third party agent who  
13 provides for the screening of all parties involved and the  
14 medical and psychological evaluation and counseling for the  
15 parties. The third party agent shall:

16 (1) initially coordinate the matching of the potential  
17 surrogate mothers with the potential intended parent or  
18 parents;

19 (2) coordinate and facilitate access to medical and  
20 psychological evaluations once the potential parties to  
21 the surrogacy agreement are determined;

22 (3) make an evaluation of the suitability of the  
23 parties to a surrogacy contract, after the medical and  
24 psychological evaluations are completed;

25 (4) submit the agent's evaluation to the court, along  
26 with all other documents necessary in order to provide  
27 additional guidance to the determining court; and

28 (5) provide access to medical and psychological  
29 counseling for all involved parties throughout the  
30 contract and for an 8-week period after the birth of the  
31 child.

32 (b) The surrogate and the intended parent or parents shall  
33 undergo non-medical evaluation and counseling performed by a  
34 health care provider. The surrogate and the intended parent or  
35 parents shall not use the same health care provider and shall

1 waive any non-disclosure privileges of the results of the  
2 evaluations conducted by the health care provider. The health  
3 care provider shall:

4 (1) assess each party's suitability to the agreement  
5 including each party's ability to provide love, affection,  
6 and guidance to the child, the ability of the party to  
7 adjust to the risks of the contract, the psychological  
8 history of the party, and other factors the health care  
9 provider deems relevant; and

10 (2) make a finding containing his or her professional  
11 opinion as to the understanding and qualification of the  
12 intended parent or parents to accept the responsibility of  
13 the surrogacy agreement.

14 In the case of the evaluation of the surrogate, the health  
15 care provider shall make a finding containing his or her  
16 professional opinion as to the understanding and capability of  
17 the surrogate to perform the surrogacy agreement.

18 (c) A home study for child placement must be conducted with  
19 respect to the intended parent or parents by a licensed child  
20 placing agency or the Department of Children and Family  
21 Services. The study shall assess the condition of the home and  
22 the ability of the intended parent or parents to provide for  
23 the health, well-being, and general necessity of the child. The  
24 results of the study shall be made available to all parties of  
25 the surrogacy contract.

26 (d) Medical evaluations shall be performed by a licensed  
27 physician on the surrogate and the donor or donors, if the  
28 donor is to be an intended parent. The surrogate shall not be  
29 examined by the same physician who examines the intended parent  
30 or parents. The evaluation shall include an extensive medical  
31 history. In cases of artificial insemination surrogacy, the  
32 surrogate shall be subject to genetic testing. In cases of  
33 gestational surrogacy, the intended mother or egg donor shall  
34 be subject to genetic testing.

35 (e) Separate counsel shall represent the surrogate and the  
36 intended parent or parents in all matters concerning the

1 surrogacy arrangement and contract.

2 (f) Each party to the surrogacy contract shall provide the  
3 agent with a written indication of that party's informed  
4 consent.

5 (g) The intended parent or parents shall place money, in  
6 the amount indicated in the surrogacy contract, in escrow so  
7 that the agent can ensure payment of the expenses of and the  
8 compensation to the surrogate. The distribution of money for  
9 compensation or expenses shall be specified in the surrogacy  
10 contract.

11 (h) The surrogacy contract shall be authorized by the court  
12 prior to the in vitro fertilization or preembryo transfer  
13 procedure.

14 Section 50. Establishment of parent-child relationship.

15 (a) A parent-child relationship may be established in the  
16 event of surrogacy if all of the following conditions are met  
17 prior to the birth of the child:

18 (1) The surrogate mother certifies that she is not the  
19 biological mother of the child, and that she is carrying  
20 the child of the intended parent or parents.

21 (2) The husband, if any, of the surrogate mother  
22 certifies that he is not the biological father of the child  
23 and that the child is that of the intended parent or  
24 parents.

25 (3) The intended mother certifies that she donated the  
26 egg from which the child being carried by the surrogate  
27 mother was conceived.

28 (4) The intended father certifies that he donated the  
29 sperm from which the child being carried by the surrogate  
30 mother was conceived.

31 (5) A physician licensed to practice medicine in all  
32 its branches in the State of Illinois certifies that the  
33 child being carried by the surrogate mother is the  
34 biological child of the intended parent or parents, and  
35 that neither the surrogate mother nor the surrogate

1 mother's husband, if any, is a biological parent of the  
2 child being carried by the surrogate mother.

3 (b) All certifications under subsection (a) shall be in  
4 writing and witnessed by 2 competent adults who are not the  
5 surrogate mother, surrogate mother's husband, if any, intended  
6 mother, or intended father. Certifications shall be on forms  
7 prescribed by the Illinois Department of Public Health, shall  
8 be executed prior to the birth of the child, and shall be  
9 placed in the medical records of the surrogate mother prior to  
10 the birth of the child. Copies of all certifications shall be  
11 delivered to the Illinois Department of Public Health prior to  
12 the birth of the child.

13 Section 55. Surrogacy contract.

14 (a) The surrogacy contract shall include, but is not  
15 limited to, the following terms:

16 (1) The surrogacy contract must be in writing and  
17 signed by the surrogate and the intended parent or parents  
18 after the parties have had full medical, psychological, and  
19 legal counseling. If the surrogate is married, her spouse's  
20 signature is also required.

21 (2) The surrogate must give certification, after  
22 informed consent, that she shall be impregnated, bear the  
23 child, and surrender custody of the child to the intended  
24 parent or parents upon the child's birth. If the surrogate  
25 is married, the spouse's certification, after informed  
26 consent, is required and the spouse shall surrender custody  
27 and all legal claims to the child.

28 (3) The amount of compensation must be stated and shall  
29 include:

30 (A) reasonable compensation;

31 (B) pregnancy-related expenses, including  
32 pre-arranged medical evaluations and complications  
33 occurring within an 8-week period after the delivery;

34 (C) a figure representing lost wages caused by the  
35 pregnancy, delivery, and post-partum recovery;

1 (D) health, disability, and life insurance  
2 throughout the term of the pregnancy and for 8 weeks  
3 after the delivery;

4 (E) attorney's fees and court costs relating to the  
5 arrangement, contract, and authorization procedures;  
6 and

7 (F) counseling fees and costs relating to  
8 non-medical evaluations before and during the  
9 pregnancy and for an 8-week period after delivery.

10 (4) The terms and conditions for the distribution of  
11 money by the agent to the surrogate for expenses and  
12 compensation must be stated.

13 (5) The name and address of the physician or physicians  
14 who will perform the surrogacy procedure must be stated.

15 (6) In the case of artificial insemination surrogacy,  
16 any visitation rights of the surrogate mother and the sperm  
17 donor, if known, must be stated.

18 (b) The surrogacy contract may include, but is not limited  
19 to, the following terms:

20 (1) The intended parent or parents may appoint a  
21 physician of their choice to care for the surrogate and may  
22 require the surrogate to undergo with that physician all  
23 medical exams, treatments, and fetal monitoring procedures  
24 that the intended parent or parents or the physician deem  
25 necessary for the success of the pregnancy.

26 (2) The intended parent or parents may require in  
27 advance of the in vitro fertilization or preembryo transfer  
28 procedure that the surrogate abstain from any activities  
29 that the intended parent or parents deem harmful to the  
30 pregnancy and future health of the child, including, but  
31 not limited to: smoking; drinking alcoholic beverages; use  
32 of non-prescribed drugs; use of prescription drugs not  
33 authorized by a health care provider; exposure to  
34 radiation; or any other activities proscribed by a health  
35 care provider.

36 (3) The intended parent or parents may choose that the

1 delivery be performed by Caesarean section.

2 (c) The surrogacy contract shall contain attachments of the  
3 certifications establishing the parent-child relationship as  
4 provided for in this Act and the Illinois Parentage Act of  
5 1984.

6 Section 60. Judicial authorization.

7 (a) Within one week after the execution of a surrogacy  
8 contract, the parties shall file notice with the court of the  
9 surrogacy contract and must jointly petition the court for  
10 judicial authorization.

11 (b) The petition shall include:

12 (1) the full names, ages, and residences of all  
13 parties;

14 (2) the name and address of the licensed physician or  
15 physicians who will perform the procedure;

16 (3) an original copy of the surrogacy contract with all  
17 of the required written consents and signatures;

18 (4) documents, evaluations, and records as required by  
19 this Act;

20 (5) evidence that the intended parent or parents have  
21 deposited sufficient funds in escrow; and

22 (6) a written consent by the surrogate's husband, if  
23 any, acknowledging the agreement and his consent to undergo  
24 testing if requested by a paternity test petition.

25 (c) After the notice and petition are filed with the court,  
26 the intended parent or parents shall post with the court a bond  
27 of a surety company registered to do business within the State.  
28 This bond shall indemnify the State for any possible costs, as  
29 determined by the court, that may be incurred by the State for  
30 the care and placement of the child in the event of a failure  
31 of the surrogacy contract.

32 (d) The court, in its discretion, may require a hearing  
33 prior to granting the judicial authorization. This hearing  
34 shall be conducted according to the provisions of this Act.

35 (e) The court shall determine, no later than 60 days after

1 the filing or re-filing of the petition or, in cases involving  
2 a hearing, within 60 days after the hearing, whether all of the  
3 required documents, evaluations, and consents have been filed  
4 and the requirements of this Act have been satisfied. An order  
5 granting authorization of the surrogacy contract shall be given  
6 only upon the finding that:

7 (1) all parties to the contract have given their  
8 informed consent;

9 (2) the surrogacy contract conforms to all of the  
10 requirements of this Act and contains no prohibited or  
11 unconscionable terms;

12 (3) the evaluations and counseling required by this Act  
13 have been sufficiently completed by qualified health care  
14 providers; and

15 (4) the surrogacy contract is in the best interest of  
16 the intended child.

17 If the court finds that the required documents, evaluations,  
18 and consents are not sufficient in the original filing, the  
19 court shall give the parties one month to correct the filing.

20 (f) If the parties submit another insufficient petition or  
21 fail to submit an amended petition, the court shall dismiss the  
22 petition. The same parties are prohibited from submitting  
23 another petition for authorization of a surrogacy contract for  
24 6 months after the dismissal of the most recent petition.

25 (g) The court shall refuse to authorize the surrogacy  
26 contract if the court finds that any misrepresentation or false  
27 statement or document was submitted in connection with the  
28 petition. Any parties involved in such a filing shall be  
29 prohibited from filing for authorization for one year from the  
30 date of refusal.

31 (h) Either party may request a hearing to be held within 60  
32 days after the order authorizing or denying the surrogacy  
33 contract and may offer additional relevant information.

34 (i) The effect of the judicial order authorizing the  
35 surrogacy contract shall be the termination of the parental  
36 rights of the surrogate and her husband, if any, after the

1 birth of the intended child and a vesting of those rights in  
2 the intended parent or parents of the surrogacy contract.

3 (j) The court shall retain jurisdiction over the  
4 arrangement throughout the duration of the surrogacy contract  
5 and for 8 weeks thereafter.

6 Section 65. Notice; hearings. If the court requires a  
7 hearing on the petition for judicial authorization, the hearing  
8 shall be held within 30 days after the filing of the petition.  
9 At least 10 days prior to the hearing, notice of the hearing  
10 shall be given to the parties and any mental health  
11 practitioner, child placing agency, health care provider, or  
12 any other person who conducted nonmedical or medical evaluation  
13 or counseling with respect to a party to the contract. The  
14 notice shall include the time and place of the hearing.

15 All hearings shall be closed to the public and the court  
16 shall admit only the essential officers of the court, parties,  
17 witnesses, and counsel. The parties to the surrogacy contract  
18 must be present at the hearing.

19 Papers and records pertaining to the surrogacy hearing  
20 shall be subject to inspection only upon consent of all  
21 petitioners or upon a showing of good cause supported by a  
22 court order.

23 Section 70. Liabilities. A person who acts in negligent  
24 noncompliance of this Act shall be liable for resulting damages  
25 and may be jointly and severally liable for child support to  
26 the resulting child under the laws of this State. The sanctions  
27 provided in this Section shall be in addition to any other  
28 sanctions provided by this Act.

29 Section 75. Sperm donor liability. A sperm donor may be  
30 liable for child support only if he signs an agreement with the  
31 other parties in the surrogacy contract to that effect.

32 Section 80. Immunities.

1 (a) Except as provided in this Act, no person shall be  
2 civilly or criminally liable for nonnegligent actions taken  
3 pursuant to the requirements of this Act.

4 (b) A health care provider whose actions, taken in  
5 performance of a contract under this Act, are in accord with  
6 reasonable medical standards shall not be subject to criminal  
7 or civil liability or discipline for unprofessional conduct  
8 with respect to those actions.

9 Section 85. Noncompliance.

10 (a) Noncompliance by the surrogate in artificial  
11 insemination surrogacy occurs when a paternity test reveals  
12 that the intended father or agreed-upon sperm donor is not the  
13 natural father. Only the surrogate or the intended parent or  
14 parents may petition the court to determine paternity of the  
15 child. The petition for the determination of paternity must be  
16 submitted to the court within 14 calendar days after the birth  
17 of the child.

18 (b) Noncompliance by the surrogate or the intended parent  
19 or parents occurs when that party breaches a provision of the  
20 contract.

21 Section 90. Effect of noncompliance. Except as provided in  
22 this Section, noncompliance with the requirements of this Act  
23 shall not affect the determination of parenthood under this Act  
24 nor shall breach of a judicially authorized surrogacy contract  
25 affect the transfer of parentage under this Act. All legal  
26 remedies are available to the non-breaching party.

27 In the case of noncompliance by the surrogate in artificial  
28 insemination surrogacy, the surrogate's breach shall mean that  
29 the custody is placed with the surrogate and her spouse, if she  
30 is married, and the intended parents shall not have any legal  
31 responsibility concerning the child. In this case, all legal  
32 remedies are available to the intended parent or parents  
33 against the surrogate.

34 There shall be no specific performance requirement for a

1 breach by the surrogate of a surrogacy contract term that  
2 requires her to be impregnated.

3 Section 95. Damages. If the surrogate fails to become  
4 pregnant within a reasonable time after the surrogacy contract  
5 has been judicially approved, the contract shall be voidable at  
6 the option of either party.

7 If the intended parents breach a material term of the  
8 contract, the surrogate may recover health care expenses that  
9 the intended parents were required to pay, collect the fees  
10 provided for in the contract, and, if the breach was the  
11 refusal to accept the child, collect child support from the  
12 intended parents.

13 Section 100. Rulemaking. The Department of Public Health  
14 may adopt rules pertaining to the required medical and  
15 psychological evaluations for a surrogacy contract. Until the  
16 Department of Public Health adopts these rules, medical  
17 evaluations and procedures shall be conducted in accordance  
18 with the relevant sections of the most recent guidelines  
19 produced by the American Fertility Society.

20 Section 105. Severability. If any provision of this Act or  
21 application of any provision of this Act to any person or  
22 circumstance is held invalid, the invalidity does not affect  
23 the other provisions or applications of the Act that can be  
24 given effect without the invalid provision or application and  
25 for this purpose the provisions of this Act are severable.

26 Section 800. The Illinois Parentage Act of 1984 is amended  
27 by changing Section 6 as follows:

28 (750 ILCS 45/6) (from Ch. 40, par. 2506)

29 Sec. 6. Establishment of Parent and Child Relationship by  
30 Consent of the Parties.

31 (a) A parent and child relationship may be established

1 voluntarily by the signing and witnessing of a voluntary  
2 acknowledgment of parentage in accordance with Section 12 of  
3 the Vital Records Act, ~~or~~ Section 10-17.7 of the Illinois  
4 Public Aid Code, or the provisions of the Gestational Surrogacy  
5 Act. The voluntary acknowledgment of parentage shall contain  
6 the social security numbers of the persons signing the  
7 voluntary acknowledgment of parentage; however, failure to  
8 include the social security numbers of the persons signing a  
9 voluntary acknowledgment of parentage does not invalidate the  
10 voluntary acknowledgment of parentage.

11 ~~(1) A parent-child relationship may be established in~~  
12 ~~the event of surrogacy if all of the following conditions~~  
13 ~~are met prior to the birth of the child:~~

14 ~~(A) The surrogate mother certifies that she is not~~  
15 ~~the biological mother of the child, and that she is~~  
16 ~~carrying the child of the biological father (sperm~~  
17 ~~donor) and of the biological mother (egg donor).~~

18 ~~(B) The husband, if any, of the surrogate mother~~  
19 ~~certifies that he is not the biological father of the~~  
20 ~~child and that the child is that of the biological~~  
21 ~~father (sperm donor) and of the biological mother (egg~~  
22 ~~donor).~~

23 ~~(C) The biological mother certifies that she~~  
24 ~~donated the egg from which the child being carried by~~  
25 ~~the surrogate mother was conceived.~~

26 ~~(D) The biological father certifies that he~~  
27 ~~donated the sperm from which the child being carried by~~  
28 ~~the surrogate mother was conceived.~~

29 ~~(E) A physician licensed to practice medicine in~~  
30 ~~all its branches in the State of Illinois certifies~~  
31 ~~that the child being carried by the surrogate mother is~~  
32 ~~the biological child of the biological mother (egg~~  
33 ~~donor) and biological father (sperm donor), and that~~  
34 ~~neither the surrogate mother nor the surrogate~~  
35 ~~mother's husband, if any, is a biological parent of the~~  
36 ~~child being carried by the surrogate mother.~~

1           ~~(F) All certifications shall be in writing and~~  
2           ~~witnessed by 2 competent adults who are not the~~  
3           ~~surrogate mother, surrogate mother's husband, if any,~~  
4           ~~biological mother, or biological father.~~  
5           ~~Certifications shall be on forms prescribed by the~~  
6           ~~Illinois Department of Public Health, shall be~~  
7           ~~executed prior to the birth of the child, and shall be~~  
8           ~~placed in the medical records of the surrogate mother~~  
9           ~~prior to the birth of the child. Copies of all~~  
10           ~~certifications shall be delivered to the Illinois~~  
11           ~~Department of Public Health prior to the birth of the~~  
12           ~~child.~~

13           ~~(2) Unless otherwise determined by order of the Circuit~~  
14           ~~Court, the child shall be presumed to be the child of the~~  
15           ~~surrogate mother and of the surrogate mother's husband, if~~  
16           ~~any, if all requirements of subdivision (a)(1) are not met~~  
17           ~~prior to the birth of the child. This presumption may be~~  
18           ~~rebutted by clear and convincing evidence. The circuit~~  
19           ~~court may order the surrogate mother, surrogate mother's~~  
20           ~~husband, biological mother, biological father, and child~~  
21           ~~to submit to such medical examinations and testing as the~~  
22           ~~court deems appropriate.~~

23           (b) Notwithstanding any other provisions of this Act,  
24           paternity established in accordance with subsection (a) has the  
25           full force and effect of a judgment entered under this Act and  
26           serves as a basis for seeking a child support order without any  
27           further proceedings to establish paternity.

28           (c) A judicial or administrative proceeding to ratify  
29           paternity established in accordance with subsection (a) is  
30           neither required nor permitted.

31           (d) A signed acknowledgment of paternity entered under this  
32           Act may be challenged in court only on the basis of fraud,  
33           duress, or material mistake of fact, with the burden of proof  
34           upon the challenging party. Pending outcome of the challenge to  
35           the acknowledgment of paternity, the legal responsibilities of  
36           the signatories shall remain in full force and effect, except

1 upon order of the court upon a showing of good cause.

2 (e) Once a parent and child relationship is established in  
3 accordance with subsection (a), an order for support may be  
4 established pursuant to a petition to establish an order for  
5 support by consent filed with the clerk of the circuit court. A  
6 copy of the properly completed acknowledgment of parentage form  
7 shall be attached to the petition. The petition shall ask that  
8 the circuit court enter an order for support. The petition may  
9 ask that an order for visitation, custody, or guardianship be  
10 entered. The filing and appearance fees provided under the  
11 Clerks of Courts Act shall be waived for all cases in which an  
12 acknowledgment of parentage form has been properly completed by  
13 the parties and in which a petition to establish an order for  
14 support by consent has been filed with the clerk of the circuit  
15 court. This subsection shall not be construed to prohibit  
16 filing any petition for child support, visitation, or custody  
17 under this Act, the Illinois Marriage and Dissolution of  
18 Marriage Act, or the Non-Support Punishment Act. This  
19 subsection shall also not be construed to prevent the  
20 establishment of an administrative support order in cases  
21 involving persons receiving child support enforcement services  
22 under Article X of the Illinois Public Aid Code.

23 (Source: P.A. 91-308, eff. 7-29-99; 91-613, eff. 10-1-99;  
24 92-16, eff. 6-28-01)